

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**PARKERSBURG DIVISION**

HERMAN BAILEY,

Petitioner,

v.

CIVIL ACTION NO. 6:05-cv-00249

THOMAS MCBRIDE, Warden,

Respondent.

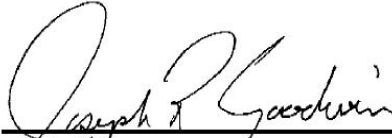
**ORDER**

Pending before the court is a Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. This action was referred to the Honorable Mary E. Stanley, United States Magistrate Judge, for submission to this court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the court **GRANT** the respondent's motion for Summary Judgment [Docket 6] and **DISMISS** the § 2254 motion.

The petitioner timely filed written objections to the Magistrate Judge's findings of fact and recommendation. Having reviewed the portions of the findings to which the petitioner objects *de novo*, the court **FINDS** that the objections are without merit. The court agrees with the Magistrate Judge's thorough analysis of the issues. Accordingly, the court accepts and incorporates herein the findings and recommendation of the Magistrate Judge, **GRANTS** the respondent's Motion for Summary Judgment and **DISMISSES** the petitioner's § 2254 motion.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: August 15, 2006

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JOSEPH R. GOODWIN  
UNITED STATES DISTRICT JUDGE